

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ADRIAN McCAIN,

Plaintiff,

v.

ORDER

NURSE KATHERN WALSH,

Defendant.

09-CV-262F

By papers filed October 29, 2009 (Doc. No. 10), Plaintiff moves for assignment of counsel. However, as Plaintiff was denied *in forma pauperis* status on June 6, 2009 by order of Hon. Charles J. Siragusa (Doc. No. 7), this court lacks authority to assign counsel pursuant to 21 U.S.C. § 1915(e)(1). See *Cochran v. Thomaides*, 2006 WL 2689579 *2 (Sep't 19, 2006 N.D.N.Y.) (assignment of counsel unavailable to *pro se* civil rights plaintiff absent granting plaintiff *in forma pauperis* status). Plaintiff has not renewed his request for *in forma pauperis* status. Accordingly, Plaintiff's motion for assignment of counsel is DENIED without prejudice.

SO ORDERED.

/s/ *Leslie G. Foschio*

LESLIE G. FOSCHIO
UNITED STATES MAGISTRATE JUDGE

Dated: August 11, 2010
Buffalo, New York

PLAINTIFF IS ADVISED THAT ANY APPEAL OF THIS DECISION AND ORDER MUST BE TAKEN BY FILING WRITTEN OBJECTION WITH THE CLERK OF COURT **NOT LATER THAN 14 DAYS** AFTER SERVICE OF THIS DECISION AND ORDER IN ACCORDANCE WITH FED.R.CIV.P. 72(a).